

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

TERESA MARTA DEL CALVO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2043

Decision No. CU 217

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by TERESA MARTA DEL CALVO in the amount of \$35,538.00, and is based upon the asserted loss of an interest in certain improved real and personal property which was nationalized or otherwise taken by the Government of Cuba. Claimant states that she has been a national of the United States since her naturalization on May 22, 1964.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises

which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

In her claim form, filed on April 25, 1967, claimant states that she and her two sisters jointly owned a house located in Havana, Cuba which was confiscated in "July of 1959." No additional evidence has been submitted since the filing of the claim. Claimant states that she did not acquire United States nationality until May 22, 1964.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimant herein establish that she was the owner of interests in property, subject of her claim, but she must also establish that some measure depriving her of her interest therein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to May 22, 1964, the dates she acquired citizenship of the United States. This she has not done.

On the basis of the existing record, the Commission finds that claimant has failed to establish that the property, subject of this claim was owned by a national of the United States on the date of loss, a requirement of Section 504(a) of the Act.

Accordingly, for the reasons stated above, the Commission concludes that this claim, based upon claimant's interest in the aforementioned property, is not one within the purview of Title V of the Act, supra, and it is denied. The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

AUG 23 1967

Edward D. Re
Edward D. Re, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 25 SEP 1967

Francis Macfarlane
Clerk of the Commission